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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,720	07/24/2001	David A. Foti	MWS-083	5512

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LAHIVE & COCKFIELD
28 STATE STREET
BOSTON, MA 02109

EXAMINER

KANG, INSUN

ART UNIT	PAPER NUMBER
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2193

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/912,720	Applicant(s) FOTI, DAVID A.	
	Examiner Insun Kang	Art Unit 2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment filed 5/15/2006.
2. Claims 1-30 are pending in the application.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 4-10, 15, 19-25, and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Houldsworth (US Patent 6,502,110).

Per claim 15:

Houldsworth discloses:

- detecting deletion of a reference to a candidate object ("reclaiming memory space allocated to data structures...by identifying pointers," abstract)
- determining a number of cyclic paths that include said candidate object in the object-oriented programming environment("a cycle of the first system may be interleaved between cycles of the second system; a first number of cycles of the first system are interleaved between a second number of cycles of the second system.

A global indicator may dictate from which system the next memory reclamation cycle will be derived," col. 2 lines 52-61)

- determining a number of internal references to said candidate object, wherein internal references are references from other objects in the object-oriented programming environment ("The bits represent a reference count of references from each direction in the heap," col. 6 lines 23-40)
- controlling disposition of said candidate object on the basis of a defined relationship between said number of internal references and said number of cyclic paths ("Whilst the in above description reference counting is performed during the reference-sweep cycle, the reference counting could alternatively, or in addition, be performed during the mark-sweep cycle. This would mean in the above example that objects 540 and 530a are reclaimed one cycle earlier," col. 6 lines 41-47) as claimed.

Per claim 4, it is another method version of claim 15, respectively, and is rejected for the same reasons set forth in connection with the rejection of claim 15 above.

Per claim 5:

The rejection of claim 4 is incorporated, and further, Houldsworth teaches:

- reading an internal-reference count (col. 1 lines 40-50) as claimed.

Per claim 6:

The rejection of claim 4 is incorporated, and further, Houldsworth teaches:

- identifying a referred object that lies on a path containing a reference originating at said candidate object; determining a fourth value indicative of a number of references to said referred object that originate at other objects the object-oriented environment, said fourth value being associated with said referred object; and determining a fifth value indicative of the number of cyclic paths to said candidate object that pass through said referred object, said fifth value being associated with said referred object (col. 2 lines 52-61) as claimed.

Per claim 7:

The rejection of claim 6 is incorporated, and further, Houldsworth teaches:

-initializing a sixth value associated with said referred object, said sixth value being indicative of a number of cyclic paths known to include said candidate object and said referred object; and adjusting said sixth value if said referred object has a reference directly to said candidate object (col. 2 lines 52-61) as claimed.

Per claim 8:

The rejection of claim 7 is incorporated, and further, Houldsworth teaches:

- identifying a referring object having a reference to said referred object; and detecting a defined relationship between said fifth value and said sixth value associated with said referred object, adjusting a seventh value associated with said referring object in response to detection of said defined relationship, said seventh value being indicative of a number of known cyclic paths that include said candidate

object and said referring object (col. 2 lines 45-67) as claimed.

Per claim 9:

The rejection of claim 8 is incorporated, and further, Houldsworth teaches:

- determining that said fifth value and said sixth value are equal to each other (col. 7 lines 16-25) as claimed.

Per claim 10:

The rejection of claim 8 is incorporated, and further, Houldsworth teaches:

- adjusting said seventh value by an amount corresponding to said sixth value (col. 7 lines 16-25) as claimed.

Per claims 19-25, they are the computer-readable medium versions of claims 4-10, respectively, and are rejected for the same reasons set forth in connection with the rejection of claims 4-10 above.

Per claim 30, it is the computer-readable medium version of claim 15, respectively, and is rejected for the same reasons set forth in connection with the rejection of claim 15 above.

Claim Rejections - 35 USC § 103

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 11-14, 16-18, and 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Houldsworth (US Patent 6,502,110) in view of the disclosure in the background section of Houldsworth (hereafter Wilson).

Per claim 1:

Houldsworth discloses determining a first value indicative of a number of references to said candidate object from other objects (i.e. col. 2 lines 27-40). Houldsworth does not explicitly teach the data structure is traversed to identify the number of references to the candidate object that are not references from other objects.

However, Houldsworth states in the background section, Wilson's garbage collection technique that "involves first marking all stored objects that are still reachable by other stored objects or from external locations by tracing a path or paths through the pointers linking data objects (col. 1 lines 27-35) teaches was known in the pertinent art, at the time applicant's invention was made, to reclaim unreachable objects from external locations. It would have been obvious for one having ordinary skill in the pertinent art of to modify Houldsworth's disclosed system to incorporate the teachings of Wilson. The modification would be obvious because one having ordinary skill in the art would be motivated to free unreachable objects from external locations as the garbage collector

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must identify pointers directly accessible to the executing program as well as references contained within the object (col. 1 lines 27-35).

Per claim 2:

The rejection of claim 1 is incorporated, and further, Houldsworth teaches:

- determining a first value comprises reading an external-reference count (i.e. col. 1 lines 27-35) as claimed.

Per claim 3:

The rejection of claim 1 is incorporated, and further, Houldsworth teaches:

- determining, on the basis of said first value, whether there exists at least one reference to said candidate object that is not from another object; and marking said candidate object for preservation if there exists at least one reference to said candidate object that is not from another object (i.e. col. 1 lines 27-35) as claimed.

Per claim 14:

The rejection of claim 1 is incorporated, and further, Houldsworth teaches:

- determining whether said candidate object is referenced from outside of a tree; and marking said candidate object for preservation if there exists a reference to said candidate object from a tree (col. 40-61) as claimed.

Per claims 11-13, they are another method versions of claims 1-3 and 14, respectively, and are rejected for the same reasons set forth in connection with the rejection of claims 1-3 and 14 above.

Per claims 16-18 and 29, they are the computer-readable medium versions of claims 1-3 and 14 respectively, and are rejected for the same reasons set forth in connection with the rejection of claims 1-3 and 14 above.

Per claims 26-28, they are the computer-readable medium versions of claims 11-13, respectively, and are rejected for the same reasons set forth in connection with the rejection of claims 11-13 above.

Response to Arguments

7. Applicant's arguments filed 5/15/2006 have been fully considered but they are not persuasive.

Per claims 4, 15, 19, and 30:

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "the candidate object is destroyed if the number of the internal references to the candidate object is equal to the number of cyclic paths including the candidate object," page 3; "cyclic path refers to a strongly connected component having the additional properties that: no node within the strongly connected component has an external reference; and no node within the strongly connected component is connected, either

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directly or indirectly, to an object having an external reference; for the candidate object being considered for destruction, the cycle-detector...determines the number of cyclic paths to that object and compares that number with the number of internal references to that object," page 3-4) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). If applicant means anything more, this must be brought out in the claims to further clarify the invention.

Per claims 1 and 16:

The applicant states that Wilson does not teach the cyclic paths.

In response, Wilson disclosure teaches external references and Houldsworth discloses that a data structure is traversed to identify those objects to which the pointers of other objects make no references and objects not descendants of root objects are determined for memory reclamation. The memory space is traversed in a first direction during even numbered cycles and traversed in a second alternate direction (col. 2 lines 62-67) so that an "object found to be unreferenced by pointers of other objects in one direction and not having the mark from a prior traversal in the alternate direction may be deleted (col. 3 lines 1-5)." The data structure traversed is the cyclic path representing a chain of references between objects and therefore the reachability relationships.

If applicant means anything more, this must be brought out in the claims to further clarify the invention.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Insun Kang whose telephone number is 571-272-3724. The examiner can normally be reached on M-F 7:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on 571-272-3719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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